

*the
Greater
Newark
urban coalition, inc.*

M E M O R A N D U M

TO: GNUC Board of Trustees

DATE: March 27, 1975

FROM: Gustav Heningburg

RE: Implications of the Newark Residency Regulation

This memorandum has been prepared to share with the Trustees of the Coalition what I perceive to be very serious short-range and long-range negative implications resulting from the recently enforced residency requirement for citizens who work for the City of Newark.

B A C K G R O U N D

In 1932 a law was passed by the New Jersey Legislature requiring that people who were employed by local Governments be residents of that particular municipality. Through a series of legislative actions in the intervening years, exemptions have been established by the Legislature for certain categories of employees (ie. firemen, policemen, teachers and lawyers).

In Newark over the years...and this has been true in most other municipalities in the state...the law has been enforced casually, inconsistently, indifferently and selectively when it has been enforced at all. Even the simple enforcement procedure of requiring every employee to sign a statement indicating Newark residency has not been uniformly applied over the years, since there are many Newark employees who were not required to sign such a statement upon being hired. This lack of enforcement has been wide-spread during recent years as many top-level city officials have been hired who were nonresidents. It has been variously estimated that presently between 30% to 50% of Newark's municipal employees are nonresidents of the city.

About two years ago, the director of a major city department dismissed a secretary on the grounds that she was not a Newark resident. The secretary initiated legal action to protest her dismissal, and the court ruled that under existing law the residency requirement was valid, and therefore the firing was upheld. Apparently, this court decision was a major factor in Mayor Gibson's decision to initiate mandatory enforcement of the residency law. It is also probable that the extremely

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high unemployment rate among Newark residents may also have been a factor in the decision to enforce the law at this time. As it now stands, all nonresidents who are not exempted by statute will be dismissed from the city payroll by May 31.

SOME CONCERNS

This action by the City poses some serious questions, and raises some very troubling implications. The legal questions are many and varied. One law suit challenging the order has already been filed; others are being planned. I am not aware of all of the issues being developed by plaintiffs, but some are immediately obvious. In recent years many successful legal challenges have been made against non-job related requirements (these challenges have been raised primarily by minorities). I don't believe there is any documented or documentable evidence to demonstrate that place of residence is related or unrelated to the successful execution of most municipal jobs. This is especially true in a densely populated urban region such as we live in, where cities are separated simply by signs and not by great distances or differences in social mores and customs.

The question of unequal protection raised by the state-mandated exempted categories also should be raised for reexamination. Ironically, those positions for which a residency requirement could be most effectively argued are exempt. The two most glaring examples are those persons who provide sensitive emergency services for the city...i.e. police and firemen...are immune. Clearly it is not rational to argue that it is more important to have a clerk live here than a cop.

Certainly, the ineffective and sporadic pattern of enforcement of the residency requirement in the past will also be brought into serious question at this time.

In addition to the legal questions, there are serious economic implications involved even for those employees who might be willing to consider moving back to the city. Due to economic circumstances over which they have no individual control, i.e. those nonresident employees who own homes where they do live will probably experience great difficulty in attempting to find a buyer. It will also be extremely difficult to purchase a home in Newark because few, if any, lending institutions make mortgage money available for the purchase of homes in Newark. The extremely high cost of mortgage money, even where available, does not require further elaboration.

For the nonresident apartment dweller, the economic problem is equally acute. I would estimate that many, if not most, of the people in this category have been hired by the city during the past 5 to 10 years, and are disproportionately black and female. The availability of decent apartments in Newark, at reasonable rental, is extremely limited and there is no immediate prospect for any change in this situation. It may well prove economically disastrous for the employees in this category to attempt to move back into the city. The problem of breaking leases on short notice, losing security deposits and possible litigation by landlords must be considered also.

In terms of the potential chaos in the functioning of city government, it should be noted that there are some major departments where virtually all key employees are nonresidents. In many cases these people perform vital functions which require technical training and experience, and a major personnel turnover on short notice, executed in a short period of time and without adequate preparation for transition will certainly prove disruptive. This disruption may well be temporary, but it will add one more burden to the already-besieged functions of city government. The answer to this problem may seem to be the development of exemptions for certain

employees, but I think the dangers inherent in individual exemptions is apparent.

One of the historic philosophical foundations on which residency laws were based, and on which some present advocates argue for enforcement is that money provided by a city taxpayer should be paid only to people who live in that particular city. This principle has merit, but the imposition of a residency requirement does not accomplish that goal. Only a portion of the money spent by the City of Newark goes for the salaries of its employees. Millions of Newark's dollars are spent to purchase goods and services from vendors, suppliers and contractors. Most of these vendors, suppliers and contractors are not Newark residents, and few of the employees they pay with the money live here nor can they be legally required to. If no residency condition is attached to the expenditure of all city dollars, the negative impact of residency is once again unequally applied.

Consideration should also be given to the problems of enforcement. It is already apparent that there will be extensive litigation, which will prove very costly to the city and to affected employees. The impact on morale will be traumatic, and signs of this are already beginning to surface. Some employees have already been required to leave their jobs during the working day accompanied by a higher ranking city official in order to prove that they live where they say they live. Anonymous letters are being received by officials who have enforcement responsibility of the order charging that certain other employees have lied in their affidavits, and do not in fact live in the city. Effective enforcement of such a rule may well revive the infamous practice ascribed to welfare case workers in the past known as the "midnight raid". Any policy which encourages or promotes devious practices on the part of employees or enforcers should be considered very carefully.

I do not believe the charge which has been made that the Mayor's purpose here is to dismiss white employees and replace them with blacks. In fact, many of the affected employees are black. Few are Puerto Rican, primarily because the city has so few Puerto Rican employees. At the same time, I respectfully disagree with the Mayor's belief that an enforced residency requirement will draw many middle class families back to the city. A realistic examination of the economics involved will not support that contention.

Finally, Newark is a regional city. Effective interaction with its environs is desirable and necessary for political, social and economic reasons. Any policy, based on law, logic, or desperation, which may serve to isolate the city and its people politically or economically cannot be held to be in the long-range best interest of Newark.